

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**SEBASTIAN PANTZAY &  
ABIDAIL SANTOS,**

**Plaintiffs,**

**V.**

**RIXIN, INC. &  
RIXIN ZHENG,**

## Defendants.

**§ 87(2)(b)**

**§ CIVIL ACTION NO. 5:17-cv-693**

**PLAINTIFFS' ORIGINAL COMPLAINT**

This is an action for unpaid wages brought under the Fair Labor Standards Act (hereinafter “FLSA”) 29 U.S.C. § 201 *et seq.* This action is brought by non-exempt workers employed by the Defendants as food-service laborers. The Plaintiffs worked for the Defendants at Rixin, Inc., d/b/a Asian Star Buffet, in San Antonio, Bexar County, Texas. The Defendants failed to pay the Plaintiffs the required overtime pay for all hours worked in excess of forty hours during each workweek. The Defendants also failed to pay the Plaintiff Sebastian Pantzay at least the federally mandated minimum wage for each hour he worked in a workweek. Accordingly, the Plaintiffs seek unpaid minimum and overtime wages, plus liquidated damages, interest, costs, and attorney’s fees as provided by law.

## I. JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants because each Defendant has sufficient contacts with this forum to give this Court general jurisdiction over each Defendant. This Court has jurisdiction over the Plaintiffs' FLSA claims pursuant to the following:

a. 28 U.S.C. §1331 (Federal Question);

- b. 28 U.S.C. § 1337 (Interstate Commerce); and
- c. 29 U.S.C. § 216(b) (FLSA).

2. Inasmuch as the Defendants' principal place of business is in Bexar County, Texas, and all or a substantial part of the acts or omissions giving rise to the Plaintiffs' causes of action occurred in or around Bexar County, Texas, venue is proper in this District and Division under 28 U.S.C. § 1391(b)(1) and (2).

## **II. THE PARTIES**

3. Plaintiff Sebastian Pantzay is an individual who worked for the Defendants and resides in Bexar County, Texas.

4. Plaintiff Abidail Santos is an individual who worked for the Defendants and resides in Bexar County, Texas.

5. Defendant Rixin, Inc. (d/b/a Asian Star Buffet) is a Texas corporation that may be served with process by serving its registered agent for service of process, Rixin Zheng, at 9919 Colonial Square, San Antonio, Texas 78240.

6. Defendant Rixin Zheng is an individual who may be served with process at his principal place of business, at 9919 Colonial Square, San Antonio, Texas 78240.

## **III. FACTUAL ALLEGATIONS**

7. The Defendants operate a restaurant under the name Asian Star Buffet located at 9919 Colonial Square in San Antonio, Bexar County, Texas.

8. From approximately January of 2016 to approximately May of 2017, Plaintiff Sebastian Pantzay worked as a food-service worker for the Defendants at Rixin, Inc. (d/b/a Asian Star Buffet) located at 9919 Colonial Square in San Antonio, Bexar County, Texas.

9. From approximately April of 2016 to approximately March of 2017, Plaintiff Abidail Santos worked as a food-service worker for the Defendants at Rixin, Inc. (d/b/a Asian Star Buffet) located at 9919 Colonial Square in San Antonio, Bexar County, Texas.

10. The Defendants recruited, hired, and employed the Plaintiffs to perform food-service duties and related activities in and around Bexar County.

11. During all times relevant to this action, the Plaintiffs performed non-exempt work.

12. During their employment, Plaintiffs were engaged in the production of goods for commerce and were entitled to the protections of the FLSA.

13. At all times hereinafter mentioned, the Defendants have been engaged in an “enterprise” within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

14. At all times relevant to this lawsuit, Defendants have been an enterprise engaged in commerce within the meaning of the FLSA, 29 U.S.C. § 203(s)(1). Defendants have had gross annual sales in excess of \$500,000.00 (exclusive of excise taxes at the retail level) in each year relevant to this lawsuit, and have had two or more employees handling goods or materials that have been moved in or produced for commerce such as cleaning supplies and food products manufactured outside of the state of Texas.

15. At all times relevant to this action, the Defendants controlled and supervised the work performed by the Plaintiffs.

16. At all times relevant to this action and as a matter of economic reality, each of the Defendants employed the Plaintiffs within the meaning of the FLSA, 29 U.S.C. §§ 203(d) and 203(g). At all material times, each of the Defendants has acted, directly or indirectly, in the interest of an employer with respect to the Plaintiffs. Facts demonstrating that the each of the Defendants was the Plaintiffs’ employer include, but are not limited to, the following:

- a. Each of the Defendants possessed the authority to hire and fire the Plaintiffs.
- b. The Plaintiffs were economically dependent on each of the Defendants for the terms and conditions of their employment.
- c. Each of the Defendants possessed and exercised the authority to control the employment rules and policies applicable to the Plaintiffs, including scheduling, timekeeping, payroll, and disciplinary practices.

17. At all times relevant to this action, the Plaintiffs were paid a day rate, regardless of the number of hours actually worked.

18. At all times relevant to this action, the Defendants failed to maintain complete and accurate records of the Plaintiffs' hours of work and compensation as required by the FLSA.

19. The Plaintiffs regularly worked more than forty hours in a work week without receiving overtime compensation for hours worked over forty.

20. In each workweek in which the Plaintiffs worked in excess of forty hours, they were not fully paid overtime compensation of one-and-a-half times their regular hourly rate for all hours they worked over forty.

21. In each workweek, the Plaintiff Sebastian Pantzay did not receive the required minimum wages for his hours worked.

22. At all times relevant to this action, the Defendants knowingly, willfully, or with reckless disregard, carried out their illegal pattern or practice of failing to pay the required overtime and minimum wage compensation due to the Plaintiffs.

#### **IV. FIRST CLAIM FOR RELIEF FLSA OVERTIME**

23. The above-described actions by the Defendants violated the Plaintiffs' overtime pay rights under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, for which they are entitled

to relief pursuant to 29 U.S.C. § 216(b). The Plaintiffs have consented to the filing of this action for violations of the FLSA. *See* Exhibits “A” and “B.”

**V. SECOND CLAIM FOR RELIEF  
FLSA MINIMUM WAGE**

24. The above-described actions by the Defendants violated the Plaintiff Sebastian Pantzay’s minimum wage rights under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, for which he is entitled to relief pursuant to 29 U.S.C. § 216(b).

**VI. PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray that this Court:

- A. Award the Plaintiffs their unpaid overtime compensation and an equal amount of liquidated damages;
- B. Award the Plaintiff Sebastian Pantzay his unpaid minimum wage damages and an equal amount of liquidated damages;
- C. Award the Plaintiffs their reasonable attorney’s fees and costs pursuant to 29 U.S.C. § 216(b); and
- D. Award the Plaintiffs pre- and post-judgment interest, as provided by law, and such other and further relief as this Court deems just and proper.

Dated this 26<sup>th</sup> day of July, 2017.

Respectfully submitted,

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